

FILED

J. ROBERT WOOLEY,
COMMISSIONER OF INSURANCE FOR
STATE OF LOUISIANA, AS LIQUIDATOR
FOR AMCARE HEALTH PLANS
OF LOUISIANA, INC., ET AL.

NOV 04 2005
DY. CLERK OF COURT

Number: 499,737

DIVISION "D"

19TH JUDICIAL DISTRICT COURT

VERSUS

PARISH OF EAST BATON ROUGE

THOMAS S. LUCKSINGER, ET AL.

STATE OF LOUISIANA

***** CONSOLIDATED WITH *****

J. ROBERT WOOLEY,
COMMISSIONER OF INSURANCE FOR
STATE OF LOUISIANA, AS LIQUIDATOR
FOR AMCARE HEALTH PLANS
OF LOUISIANA, INC., ET AL.

Number: 509,297

DIVISION "D"

19TH JUDICIAL DISTRICT COURT

VERSUS

PARISH OF EAST BATON ROUGE

FOUNDATION HEALTH CORP., ET AL

STATE OF LOUISIANA

***** CONSOLIDATED WITH *****

J. ROBERT WOOLEY,
COMMISSIONER OF INSURANCE FOR
STATE OF LOUISIANA, AS LIQUIDATOR
FOR AMCARE HEALTH PLANS
OF LOUISIANA, INC., ET AL.

Number: 512,366

DIVISION "D"

19TH JUDICIAL DISTRICT COURT

VERSUS

PARISH OF EAST BATON ROUGE

PRICEWATERHOUSECOOPERS, LLP

STATE OF LOUISIANA

FINAL JUDGMENT REGARDING LOUISIANA PLAINTIFF

THIS CAUSE came on to be heard before the Honorable Janice Clark pursuant to ordinary assignment by the Court on June 17, June 20-24, and June 27-30, and having been submitted to the Court for consideration after additional evidence was submitted to the Court in July 2005, and after post-trial memoranda were submitted and post-trial arguments heard; for the reasons assigned in the conclusions of fact and law issued by this Court herewith, which are hereby adopted by reference, and considering the pleadings filed herein, the evidence admitted into evidence at trial, and the argument of counsel, this Court rules that judgment be rendered in favor of the plaintiff, J. Robert Wooley, Commissioner of Insurance for the State of Louisiana, in his capacity as Liquidator of AmCare Health Plans of Louisiana, Inc., through his duly appointed Receiver, Marlon V. Harrison ("the Louisiana HMO"), and against defendant, Health Net, Inc., as follows:

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that defendant Health Net, Inc. was at fault in the transactions at issue with the Louisiana HMO and that other entities were also at fault in the transactions at issue; specifically, this Court allocates the following specific percentages of fault to all culpable entities:

Defendant Health Net	70 %
Any other Person(s)	15%
Any other Company	15%
TOTAL	100%

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that plaintiff sustained its burden of proving by a preponderance of the evidence that defendant Health Net, Inc. breached a fiduciary duty that proximately caused damage to the Louisiana HMO or its creditors; and

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that plaintiff sustained its burden of proving by clear and convincing evidence that defendant Health Net, Inc. committed fraud that proximately caused damage to the Louisiana HMO or its creditors; and

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that plaintiff sustained its burden of proving by a preponderance of the evidence that Health Net, Inc. is liable for negligent misrepresentations which proximately caused damage to the Louisiana HMO or its creditors; and

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that plaintiff sustained its burden of proving by a preponderance of the evidence that defendant Health Net, Inc. knowingly engaged in an unfair or deceptive act or practice that was the proximate cause of damage to the Louisiana HMO or its creditors; and

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that plaintiff sustained its burden of proving by a preponderance of the evidence that defendant Health Net, Inc. conspired with other persons which proximately caused damage to the Louisiana HMO or its creditors; and

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that plaintiff sustained its burden of proving by clear and convincing evidence that defendant Health Net, Inc. acted with malice or gross negligence regarding the rights of the Louisiana HMO or its creditors; and

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that plaintiff sustained its burden of proving by a preponderance of the evidence that the Louisiana HMO or its creditors sustained compensatory damages totaling \$9,511,624.19 as a result of defendant Health Net, Inc.'s fault; and accordingly, judgment is hereby rendered in favor of plaintiff, the Louisiana HMO, in the amount of \$6,658,136.93 (calculated as the award of \$9,511,624.19 multiplied by 70% of the liability allocated to Health Net, Inc.), plus judicial interest according to Louisiana law from the date of judicial demand in this action until paid;

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that, given this Court's finding that defendant Health Net, Inc. knowingly engaged in an unfair or deceptive act or practice that was the proximate cause of damage to the Louisiana HMO or its creditors, plaintiff is entitled to an award of reasonable attorneys' fees; the evidence supporting the award of attorneys' fees and the determination of the amount of the attorneys' fees award shall be made following a bifurcated trial to be held on the 21st day of November, 2005, at 9:30 a.m.;

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that plaintiff sustained its burden of proving by clear and convincing evidence that defendant Health Net, Inc. engaged in fraud, malice, and gross negligence, and this Court finds that defendant Health Net, Inc.'s conduct was sufficiently egregious to warrant an award of punitive damages; the evidence supporting the exact amount of the punitive damages award shall be made following a bifurcated trial to be held on the 21st day of November, 2005, at 9:30 a.m.;

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that, given this Court's finding that defendant Health Net, Inc. knowingly engaged in an unfair or deceptive act or practice that was the proximate cause of damage to the Louisiana HMO or its creditors, plaintiff is entitled to an award of either treble compensatory damages or, at its election, an award of punitive damages as determined following the bifurcated trial regarding the same;


IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that, independent of any fraudulent or otherwise tortious conduct of defendant Health Net, Inc. that proximately caused damages to the Louisiana HMO or its creditors, plaintiff sustained its burden of proving by a preponderance of the evidence that defendant Health Net, Inc. is liable unto plaintiff under its parental guarantee;

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that plaintiff sustained its burden of proving by a preponderance of the evidence that the Louisiana HMO or its creditors sustained losses totaling \$9,511,624.19; defendant Health Net, Inc. is contractually liable unto plaintiff for this full amount which shall not be reduced through any allocation of fault to any other entity; and accordingly, judgment is hereby rendered in favor of plaintiff, the Louisiana HMO, in the

amount of \$9,511,624.19, plus judicial interest according to Louisiana law from the date of judicial demand in this action until paid;

IT IS HEREBY FINALLY ORDERED, ADJUDGED, AND DECREED that Judgment is rendered in favor of the plaintiff, the Louisiana HMO, and against the defendant, Health Net, Inc., awarding court costs in an amount to be determined by the court contradictorily at a later date; further, there being no just reason for delay, this judgment shall constitute a final appealable judgment and is hereby accorded such designation, all at defendant Health Net, Inc.'s costs.

JUDGMENT READ AND SIGNED in Chambers this 4th day of November, 2005, in Baton Rouge, Louisiana.


Honorable Janice Clark, Div. D
Judge, 19th Judicial District Court

CERTIFIED
TRUE COPY

MAY 02 2011

BY


DEPUTY CLERK